IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 4419 of 2006
Date of decision : 9.11.2006

Ex. Sub./Maj. M.L. Sharma

.....Petitioner.

Versus

Kamlesh Rani Gupta

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Arvind Kashyap,Advocate
for the petitioner.

Mr. Vibohar Bansal, Advocate
for the respondent.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 1.6.2006 p0assed by the learned Rent Controller, Ambala Cantt. Vide which defence of the petitioner has been ordered to be struck off for not filing the written statement within the stipulated period of 90 days.

The impugned order cannot be sustained in view of the law laid down by the Hon'ble Supreme Court in ***Shaikh Salim Haji Abdul Khayumsab Vs. Kumar and Company (2006-1) PLR 284*** holding that provision of Order 8 Rule 1 of the Code of Civil Procedure and proviso thereto is directory in character and not mandatory.

Accordingly the impugned order is set aside and the petitioner is granted one last opportunity to file his written statement on the date to be

fixed by the trial Court. In case written statement is filed on the said date the same be taken on record and matter be proceeded in accordance with law.

9.11.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**